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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/518,679

08/16/2005

Richard Bell

PG4798USW

2845

23347

7590

12/11/2006

GLAXOSMITHKLINE

CORPORATE INTELLECTUAL PROPERTY, MAI B475

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RESEARCH TRIANGLE PARK, NC 27709-3398

EXAMINER

ROBINSON, BINTA M

ART UNIT

PAPER NUMBER

1625

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/518,679

Applicant(s)

BELL ET AL.

Examiner

Binta M. Robinson

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1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 15, 17, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/17/04
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. 11/27/06
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

**Detailed Action**

The 103( a) rejection over Friebe, the 102 (b) rejection over Friebe, the 102 (b) rejection over Baker et. al., The 102 (b) rejection over Grimova, and the 112, first paragraph rejections of claims 1-14, 17, and the 112, second paragraph rejection of claim 15 made in the office action mailed June 13, 2006 are rendered moot in light of applicant's amendment filed 9/12/06. The 103 (a) rejection over Chiellini made at the office action filed 1/10/06, is rendered moot in light of applicant's amendment filed 9/12/06. Claims 20-21 are withdrawn from examination.

**(new rejections)**

The following is a quotation of the second paragraph of 35 U.S.C.

112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12, 15, 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. In claim 1, and everywhere else throughout the claims, the phrase "The proviso at claim 1 which states "R7 is a phenyl or pyridine ring which is substituted meta to the point of attachment of the depicted X1 moiety by para -C<sub>6</sub>H<sub>4</sub>CF<sub>3</sub>, para -C<sub>6</sub>H<sub>4</sub>Me, para - C<sub>6</sub>H<sub>4</sub>CN or para - C<sub>6</sub>H<sub>4</sub>Cl" is unclear and indefinite. The term "meta to the point of attachment of the depicted X1 moiety" is confusing and unclear, because -C(R5)(R6), not X1 is attached to R7, and meta corresponds to substituents attached at the 1, 3 position of a benzene ring, not a pyridinyl ring. Here the X1 moiety is not attached to

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the benzene or pyridine ring, and also the term "meta" can not be used to refer to substituents on pyridine, but only phenyl.

The references crossed out in the IDS filed 12/17/04 will not be considered until they are supplied to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binta M. Robinson whose telephone number is (571) 272-0692. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Thomas Mckenzie can be reached on 571-272-0670.

A facsimile center has been established. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier numbers for accessing the facsimile machine are (703)308-4242, (703)305-3592, and (703)305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)-272-1600.

BMR  
December 6, 2006

  
TAYLOR VICTOR OH  
PRIMARY EXAMINER

12/6/06